IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14667 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HUSSAINBHAI MAMAD MADVANI

Versus

STATE OF GUJARAT

Appearance:

MR NV ANJARIA for Petitioner No. 1

MR SN SHELAT, ADVOCATE GENEAL, with Ms MAITHILI MEHTA, AGP, for Respondent No. 1,3-4

NOTICE SERVED for Respondent No. 1

MR PRASHANT G DESAI for Respondent No. 2

MR YS MANKAD for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 05/08/2004

ORAL JUDGEMENT

RULE. Service of rule is waived by learned AGP Ms. Maithili Mehta for respondents Nos. 1, 3 and 4 and by learned advocate Shri P.G. Desai for respondent No. 2 and by learned advocate Shri Y.S. Mankad for respondent No. 5. At the request of the learned advocates, the petition is heard today.

2. The affidavit filed by the Bhuj Municipality, respondent No. 5 herein, is taken on record.

3. The petitioner was tenant in respect of some land situated at Sarpat Gate area within the area covered under Bhuj Town Planning Scheme No. 6.

4. It is not in dispute that as per the said scheme, the land occupied by the petitioner will be forming part of a road and, therefore, the petitioner will have to be evicted from the land occupied by him.

5. The learned advocates have submitted that a matter involving similar facts, being Special Civil Application No. 14666/03, has been decided by this court on 23.7.2004. In the said petition, an affidavit was filed on behalf of respondent No. 2 stating that it would consider cases of bona fide tenants, who were to be affected by the town planning scheme, and respondent No. 2 would try to give such tenants alternative accommodation in the vicinity, where they were staying/doing their business.

6. In the affidavit filed in the said petition, no averment was made as to how much amount was to be charged for allotment of plots to such adversely affected bona fide tenants. It has been submitted by learned advocate Shri Desai appearing for respondent No. 2 that respondent No. 2 authority has laid down a policy with regard to allotment of land to the affected persons and the said authority, being a State within the meaning of Art. 12 of the Constitution of India, would like to remain consistent in matter of allotment of plots to all affected persons and, therefore, the following statement has been made by him in this matter :

"Respondent No. 2 will consider the case of the petitioner and will try to give him alternative accommodation in the same vicinity as per the land disposal policy of respondent No. 2, which is generally to charge market price. However, looking to the peculiar facts of the case, if the petitioner makes a representation for exemption,

or reduction in price, his cases will be considered sympathetically."

7. In view of the above statement, it is directed that respondent No. 2 shall take appropriate action as per its land allotment policy and the statement made on behalf of respondent No. 2.

8. In view of the aforestated statement made on behalf of respondent No. 2, the grievance ventilated in the petitions would not survive and, therefore, the petition is disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

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